APPENDIX

(Statement of the Sailors' Union of the Pacific, submitted for the record by Representative Richard J. Welch:)

SAILORS' UNION,
Washington, D. C., June 23, 1937.

To the Honorable Members of the Joint Committee on Labor, Washington, D. C.

SIRS: Having been unable, during the course of the hearings conducted under your auspices on the Fair Labor Standards Act of 1937, to appear before your committee in person, I take this means of communicating to you the position of the Sailors' Union of the Pacific with respect to the aforementioned bill.

I understand that the committee invites constructive discussion, and I trust that what I have to offer will fall into that category.

Representing as I do, the 8,000 members of the Sailors' Union of the Pacific I wish to say first of all, that this organization has, for 52 years, been in the forefront of every struggle for better conditions for seamen, and we see in this bill, a long forward step in the direction toward which we have pointed our own efforts. The provisions for abolition of child labor, industrial espionage and strike-breaking are most commendable.

Without going into some of the usual controversial sections of the proposed act, I would say that the two things which we would discuss here are—

1. Does the scope of the bill extend the authority of the Board to cover seamen?

2. Will the Board as set up under the proposed act in any way, transcend, supplant, supersede, or overlap the authority and duties of the National Labor Relations Board or the Maritime Commission, as their authority and duties apply to seamen?

As we read and interpret the proposed act, the answer to both questions is yes.

With respect to no. 1, the bill as written, does not specifically except the seamen from the operation of the provisions of the act. At the same time, there is nothing in the bill which repeals any previous acts or parts of acts with which its proposed provisions may conflict.

In this connection, I would refer you to the Social Security Act for legislative precedent. By specific language, seamen are excluded from participation in that benefit.

To further emphasize the point, I would refer you to section 2 (a), subsection 7, of the proposed act, wherein certain exclusions are listed, among them agricultural laborers. Seamen are not mentioned, and it can be presumed, and it indeed is the opinion of some authorities that seamen could be included in the definition of "employee" as set out in section mentioned.

However, it is our honest opinion that the purpose of the law is to make provision for the prevention of unfair labor practices in industries not already covered by law, particularly in industries engaged in the production of commodities and goods. This conclusion would seem to be borne out by the exception of agricultural laborers from the definition of "employee" in the proposed act. I would point out that so far as the seamen are concerned, they are not engaged in production; rather they are part of the "carrier" system.

But the bill is not clear on that point, and in our opinion, it should be made so.

With respect to no. 2, I would respectfully call your attention to the provisions of section 10 of the National Labor Relations Act of 1935, which section is entitled "Prevention of Unfair Labor Practices." It reads in part:

"SEC. 10 (a). The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce.

This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."

I understand that opinions have been asked as to whether section 8 as referred to above covers all the points covered in the proposed act, particularly as regards espionage and strikebreaking, and that in the event section 8 is held insufficient in those respects, new legislation will be asked for in remedy of those defects. However, with respect to other practices, it would seem that the duties and authority of the proposed board would overlap the duties and authority of the National Labor Relations Board.

Further attention is called to title III, section 301, of the Merchant Marine Act of 1936, wherein the Maritime Commission is empowered to perform, for subsidized vessels of the United States Merchant Marine, duties similar to those assigned to the proposed board under H. R. 7200 and S. 2475. The section referred to reads in part:

"SEC. 301 (a). The Commission is authorized and directed to investigate the employment and wage conditions in ocean-going shipping and, after making such investigation and after appropriate hearings, to incorporate in the contracts authorized under Titles VI and VII of this Act minimum-manning scales and minimum-wage scales and reasonable working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy. * * *"

Here again, if seamen are to be included in the definition of "employee" as set out in section 2 (a), subsection 7, of the proposed act, it would appear that the authority of the proposed board would overlap the authority and direction of the Maritime Commission.

I offer these references and observations for your consideration, because within the past 3 years, the seamen, through organized effort, have reached certain agreements which have resulted in better conditions for them. These

agreements have been so written as to be operative within the present provisions of the law with respect to labor relations between employer and employee.

Our union does not like to see any further or additional legislation enacted to cover a group of workers already so well covered, which might tend to create some confusion in labor relations, which are now on the road to practical and successful operation.

Therefore, I ask on behalf of the Sailors' Union of the Pacific, that the bill be so written as to exclude the seamen from the operation of the provisions of the bill.

Respectfully,

E. R. HOWELL,
Assistant Secretary and Legislative Representative.